102

Supreme Court, U.S.
FILED

(1) 08-266 MAY 27 2008

OFFICE OF THE CLERK
William K. Suter, Clerk

NO

IN THE

SUPREME COURT OF THE UNITED STSTES

MAHABIR NANAN PETITIONER
SHELLIE YOUHOING- NANAN

VS.

STATE FARM FIRE & CASUALTY RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT OF GEORGIA

PETITION FOR A WRIT OF CERTIORARI

SHELLIE YOUHOING- NANAN
MAHABIR NANAN

PRO-SE COUNSELS OF RECORD FOR PETITIONER

445 STATEN STREET
JONESBORO, GA. 30238

(770) 603- 6573

QUESTION(S) PRESENTED

(1) The full and fair question is, "if congress shall make no laws abridging the freedom of speech and the right to petition the government for redress of grievances" (first amendment), and if the enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people (ninth amendment), and if the rights of the people is not to be denied equal protection and due process of law (fourteenth amendment), and if no person shall be deprived life, liberty, or property without due process of law (fifth amendment), and if the constitution must be construed in its entirety, and if the judicial system has committed acts that have violated that constitution, do Petitioner acting in his legal capacity, have a right to involved in the judicial process and obtain equal protection under the law, equivalent to those of major corporations ?.

(2) One of the fundamental question before this court is, if the legal administration of the court, is an institution of law and justice, doesn't the law strictly, prohibits, all unlawful practices, and once those unlawful acts are initiated, isn't the presence of such acts brings the legal administration of justice into disrepute?

(3) The enumeration of the fourteenth amendment to the United States constitution guarantees "no states shall make or enforced any laws which shall abridge the privileges and immunity of citizens of the United States, doesn't the conduct of the state of Georgia, in the year 2008, discriminating against Petitioner, incorporating laws consistent with those of the "Jim Crow", which guarantees, unequal protection of law to certain individual or corporation, while hindering Petitioner of those same rights guaranteed by the constitution , a severe violation of law?

(4) If the fourteenth Amendment to the Constitution of the United States and Title18 U.S.C Sec. Sec. 241 & 242 safeguards all citizens from threats, intimidation, in the free exercise of their legal right, wouldn't it be a violation of Petitioner constitutional right, for the Supreme Court of Georgia, Appellate Court, and Respondent State Farm, to utilized the legal administration of the court to inflict such acts upon Petitioner, a pro se counsel before the court?

(5) If the laws of the state of Georgia, guarantees, "an appeal, a matter of right to all Georgia citizen, wouldn't it be a violation of Petitioner civil rights for the Appellate Court of Georgia to deny/ hindered Petitioner, his fundamental right to a fair and impartial appeal?

(6) The supreme laws of the constitution of the United States, and the Code of Judicial Conduct, requires all, officers of the

courts, both judges and attorneys, to uphold the laws of the land, shouldn't it be a profound violation of law and conflict of interest, for those officers to be in violation of those laws they have avowed to uphold the integrity thereof?

(7) If the code of judicial conduct, prohibits judges from prejudicing opposing party, and involving in unlawful conduct, isn't it unlawful for justice of the Second Division of Georgia to publicly, perfect and mailing rulings, containing false statements, the justices known to be false, especially when such acts were perfected with the sole purpose of affirming the lower court's unlawful decision, disentrancing Petitioner of his constitutional rights, and conceals the unlawful acts of the lower court and Respondent State Farm?.

(8) If the constitution of the United States prohibits our states and Government from arbitrary and unfair decisions, which prejudices and interferes with litigants civil rights, especially in our courts, isn't it unlawful for the Appellate Court to perfect ruling which affirms the lower court's unlawful dismissal of Petitioner law-suit, on an empty, illegitimate, case file containing absolutely no notice of appeal, enumeration of error, legal argument, not a scintilla of pleading, which is critically imperative for a competent tribunal to perfect an impartial ruling.?

(9) One of the most important question for this court to determine, is whether or not, Petitioner inherits constitutional rights to be heard before the court and obtain equal protection of law before the court, and such proceeding not be hindered by officers of the court, discrimination, prejudice, regardless of the fact, Petitioner is not a lawyer?

(10) If the decision of the lower court, Appellate Court, and Supreme Court of Georgia, is prejudicial to Petitioner, and or unlawful, should those court's decisions under any legal circumstance, be regarded as fair and just towards the prejudiced party?

(11) A fair and reasonable question before this court, is, if the process which affirms the lower court's dismissal of Petitioner law-suit is unlawful, isn't it a statutory fact according to the doctrine of the law, that all court decision perfected under fraudulent pretences, automatically, nullifies and void, the entire process, as a matter of law.?

(12) State laws and constitutional laws, prohibits, all legal tribune in the United States, from prohibiting litigants from presenting evidence, or refusing to consider such evidence, materially imperative in proving his case, isn't such unlawful acts, by Georgia courts a profound violation of Petitioner state and federal constitutional right.

LIST OF PARTIES AND CORPORATE DISCLOSURE STATEMENT

All Parties Appear in the Caption of the Case on the Cover page.

TABLE OF CONTENTS

OPINIONS BELOW 1-2

JURISDICTION 2

TABLE OF AUTHORITY iii

CONSTITUTION AND STATUTORY -PROVISIONS 3-5

STATEMENT OF THE CASE 5

REASONS FOR GRANTING THE PETITION 10

CONCLUSION 30-34

TABLE OF AUTHORITY Page

Brown v. Board of Ed. 347 U.S 483 (1954) 11.

Cooper v. Aaron 358 U.S 1, 78 S CT. 1401 (1958) 19-20

Hass v. Henkel 216 U.S 462 (1910) 25.

Hammerschmidt v. United States 265 U.S 182 (1824) 25.

Turner v. State 384 U.S 107, 128 (1987) 26.

Dennis v. United States 384 U.S 855 (1966) 26

State v. Tuohey 867, F, 537 (9TH Cir. 1989) 26

Elliot v. Piersol 1 Pet. 328, 340, 26, U.S 328, 340 (1828) 19

Schever v. Rhoder 416 U.S 323, 94, S. CT. 1683, 1687 (1974) 20

U.S v. Will 499 U.S 200, 216, 101, S. 20

INDEXES OF APPENDIXES

APPENDIX A. TRIAL COURT DISMISSAL RULING
APPENDIX B. APPELLATE COURT DOCKETING
APPENDIX C. APPELLATE COURT RE-DOCKETING.

APPENDIX D. APPELLATE COURT RULING.

APPENDIX E. SUPREME COURT RULING.

APPENDIX F. SUPREME COURT DENIAL MOTION FOR RECONSIDERATION.

APPENDIX H. PROOF OF DEPOSITION/ STATE FARM.

	page
CT 471, 66, L. ed 392, 406 (1980)	
Virginia 19 U.S 264, 404, 5 L. ed 257 (1821)	20
Bulloch v. United States 763, F. 2d	23
1115, 1121, 10th Cir. 23 (1941)	
Liteky v. U.S 114, S. CT 1147, 1162 (1941)	24
Liljeberg v Health Service Acquisition Corp. 486, U.S 847, 108, SC, 2194 (1988).	24
Ballstrieri 779 F. 2d 1191 (7th Cir. 1989)	24
Taylor v. O'Grady 888, F. 2d, 1189, (7th Cir. 1989)	24
Pfizer v. Lord 456, F. 2d, 532, (8th Cir. 1972)	24
United States v. Scituto 521, F. 2d 842, 845 (7th Cir. 1996)	24
United States v. Mandujano 425, U.S. 564, 576, (1976)	29
United States v. Debrow 346 U.S 374, 377 (1953)	29
Kenner v. Cir. 387, F. 3d. 689 (1968)	23
Moore Federal Practice 2d, ED.P 512p, 60.23	23

People of Illinois v. Fred E. Sterling 357, 111, 354, 192, 23 N.E. 229 (1934). 23

In Re. Winship 397 U.S 382 (1970). 32

STATUES

O.C.G.A. 5-6-48 Governing Transmittance of Transcript & records to Appellate Court

O.C.G.A. 5-6-10 Statue Governing Appellate Decisions and remittitur.

O.C.G.A 5-6-30 Statue prohibiting Dismissal of appeal missing ruling on merit.

O.C.G.A. 24-4- 1 (GCA 38-103) "Burden of Proof".

Uniform Superior Court Rules 6.3 & 6.4 "Good Faith Effort".

Uniform Superior Court Rules 25.3 Governing Recusal/ dismissal of judge.

Title 18 U.S.C 1505, 1512, 1515, "Perjury and Subornation".

Title 18 U.S.C. 2381 "Treason".

Title 18 U.S.C. 1503 "Omnibus Clause"

Title 18 U.S.C Sec.241 " Conspiracy against Rights"

-Title 18 USC Sec 242 "Deprivation of Rights under Color of Law.

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR A WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issued to review the judgment below.

OPINIONS BELOW

The order of the Cobb County state Court dismissing Petitioner law- suit with prejudice based on false unsubstantiated allegations of Respondent State Farms attorneys. The decision of the Trial Court is unreported, but a copy is attached hereto as Appendix "A".

The docketing of the Appellate Court, containing multiple appeal cases representing the same appellate issue simentaniously, attached hereto as Appendixes B and C.

The Appellate Courts ruling upholding the trial courts dismissal of Petitioner law-suit, perfected on an empty duplicated case file, containing nothing; no notice of appeal, enumeration of error, legal brief, not a scintilla of evidence, attached hereto as Appendix "D".

The decision of the Supreme court denying Petitioner petition for certiorari, the decision of the Supreme is unreported, a copy of the denial is attached hereto as Appendix "E".

The decision of the Supreme Court denying Petitioner motion for reconsideration. The decision of the Supreme Court is unreported a copy of the decision is attached hereto as Appendix "F".

The deposition transcript conducted at Respondent State Farms law-firm, which is the subject matter of this appeal. Respondent, State Farm denied such deposition occurred, filing numerous false motions and pleadings in court record, denying its law-firm conducted said deposition, it was based on such denial, Petitioner law-suit was dismissed with prejudice from the lower court and continues to be materially substantial to the out come of this proceeding. Copy of deposition is attached hereto as Appendix "H".

JURISDICTION

The Supreme Court of Georgia, denied Petitioner Petition for a writ of certiorari on June 07, 2007, Petitioner filed a motion for reconsideration, which was denied on Feb. 25, 2008.
This petition is filed within 90 days of that date, jurisdiction is invoked under 28 U.S.C. Sec.1257 (a).

FEDERAL CONSTITUTION AND STATUTORY PROVISIONS INVOLVED

1. The first ammendment to the constitution of the united States reads in reliant parts: **" Congress shall make no law... abridging ... the right of the people... to petition the Government for a redress of grievances, or freedom of speech."**

2. The fourteenth ammendment to the Constitution of the United States reads in relevant part: **"No state shall make or enforce any law which abridged the privileges and immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law".**

3. The ninth ammendment to the United States Constitution reads in part: **" The enumeration in the constitution, of certain rights, shall no be construed to deny or disparage others retained by the people"**

4. Provision of Deprivation of rights under color of law reads in relevant part: **" This statue makes it a crime for any person acting under color of law to deprive or cause to be deprived from any person those rights , privileges, or immunities secured or protected by the constitution and laws of the United States.**

5. The Provision of Conspiracy against Rights reads in relevant part: **This statue makes it unlawful for two or more persons to conspire to threaten, injure, intimidates, oppress, any person of any state, territory, or district in the free exercise or enjoyment or rights or privilege secured to him/ her by the United States constitution or the laws of the United States".**

Article 111 of the United States Constitution".

(6) The fifth ammendment to the United States Constitution reads in relevant part: " **No person shall be ..: deprived of liberty, or property, without due process of law...."**

7. Constitution of Georgia, Art. 1, Sec1Para 1, reads in reliant part **" Protection to person and property is and shall be the paramount duty of government and shall be impartial and complete no person shall be deprived equal protection of law"**

8.The Bill of Rights.

9. Civil Rights Act 40- C- (2).reads in relevant part: " **Violation of one's Civil Right occurred when a person is subjected to any discrimination in his civil right, or harasses in the exercise thereof, by any other person, institution or the state."**

(10) The Code of Judicial Conduct reads in relevant part:" **Judges and courts shall accord to every** person **or that person's lawyer the rights to be heard according to the law".**

STATEMENT OF THE CASE

This petition, resulting from a matter where Petitioner law-suit against State Farm Fire & Casualty Company, due to State Farms failure to pay Petitioner loss, resulting from a fire disaster incident, occurred on Feb. 21, 2003, was dismissed with prejudice from the Cobb County State Court, on August 25th, 2005, based on the fraudulent allegations and un- ethical conduct of Respondent State Farms Fire & Casualty's attorneys, and the blatant failures on the part of the presiding judge to uphold the rules of law and apply the law approperately, however,such significant, legal failures, on the part of the Cobb County State Court, resulted in tremendous violation of Petitioner civil rights, and also violates the civil procedures of the state of Georgia, and the code of Judicial Conduct.

However, the substantial and legal argument raised by Petitioner, is that on August 05th, 2005, while said law- suit was pending before the Cobb County State Court, attorney from law-firm, Swift, Currie, McGhee & Hiers, (the law- firm which represents State

Farm, in this proceeding) , deposed both Petitioner, at a court ordered deposition, held at State Farms attorney's law-firm, located at 1355, Peachtree Street, N.E Atlanta, Georgia. At the conclusion of said legal proceeding, State Farms attorneys, filed, numerous fraudulent motions and affidavits, in Court record, under penalty of perjury, unequivocally denying, such material, legal proceeding occurred. Also, denying, both Petitioner, attended said proceeding and were deposed, and thirdly, that Petitioner,failed to grant State Farm access to his home to conduct home inspection, an allegation which not only false but deliberately calculated with the vexatious intent to obtain dismissal against Petitioner unlawfully, in order to fraudulently, eliminates the two million dollars (**$2,000,000**) law-suit, in compensatory liability, filed by Petitioner, in conjunction with the **$190,000.00** (one hundred and ninety thousand) dollars, for the loss of Petitioner home, resulting from the fire disaster.

The conduct of the attorneys herein, are serious, not only does such acts violates numerous criminal statues and state laws but federal laws as well. constituting, material evidence tampering, obstruction of justice, fraud upon the court, mail fraud, perjury etc. Petitioner proclaimed that the graveness of the violations herein, is unacceptable on all legal grounds, as our judicial officers are held to the highest legal standards, both ethical and moral, any conduct, contrary to ethical standard, is inexcusable.

Contrary to the rules of law, the presiding judge, dismissed Petitioner law-suit with prejudice, based on the fraudulent allegations of State Farm Insurance attorneys, lacking a scintilla of evidence to substantiate such tremendous allegations, and further perfect an arbitrary ruling, falsely, accusing Petitioner of not only failing to attend deposition but home inspection as well, despite the fact court record, revealed indisputable, petitioner diligently complied with both discoveries orders of the court. But further unlawful, the court failed to oblige State Farm Fire & Casualty, a (major corporation) to meet the "burden of proof", which is a statutory requirement of law, mandatory in determining "motion to dismiss",pursuant to the provisions of § O.C.G.A 24-4-1 (GCA 38- 103). In further violation of law,the Trial Court, also defied, the provisions of Uniform Superior Court Rules 6.3& 6.4, a mandatory requirement, requiring the presiding judge to verify, whether the moving party conduct "good faith effort" prior to the filing of a "motion to dismiss". Again the Presiding Judge failed to uphold the rules of law, which is a constitutional violation.

In further acts of prejudice and severe reprisal against Petitioner, for the filing of a motion to "recuse" disqualifying the presiding judge, for exploding upon Petitioner, Shellie Youhoing-Nanan, the female pro-se counsel of record for Petitioner, in open court, during a motion hearing, violating her first ammendment right to freedom of speech, wrongfully, inflicting the acts of public humiliation, intimidation, discrimination and threats upon petitioner. judge David P. Darden, once again, defied the rules of

law, stipulated in Uniform Superior Court Rules 25.3, which requires the presiding judge to cease from further engagements in the case and allow another judge to determine the recusal motion, but contrary to the rules of U.S.C.R. 25.3, Your Honor, failed to abide by these rules, and without proper legal authority, dismissing Petitioner law- suit with prejudice. But further unlawful, and contrary to the rules and laws, of the civil procedures of this state, Your Honor, dismissed Petitioner law- suit on August 25, 2005 and later perfected a controversial ruling on his own recusal, on August 30, 2005, five days after, Petitioner lawsuit was already dismissed/ terminated from the court, thus declaring the dismissal of Petitioner law-suit, null and void, as the presiding judge, was without legal "authority to act" tantamount to a profound miscarriage of justice under all legal capacity of law.

Petitioner herein, filed a legal appeal with the Appellate Court of Georgia, to review the unlawful decision of the lower court, resulting in even graver constitutional violations of Petitioner state and federal rights. The Appellate Court in serious violation of law, dismissed Petitioner timely filed appeal, after ten months of deliberation, missing a ruling on it's merit, based on false allegations of "missing transcript" an act which severely violates the provisions of §O.C.G.A. 5-6-48 (d) and §O.G.G.A. 9-11-30, which declares it unlawful for the Appellate Court to dismiss a case after almost a year of deliberation, missing ruling on the merit

of said case. Despite such tremendous discrimination, miscarriage of justice, and severe legal err, the Supreme Court of Georgia, declined all legal intervention, while obliging State Firm's attorney privileges which violate the laws and constitution of Georgia and the united States, as said attorneys sworn falsely under oath, in the presence of the Supreme Court, constituting "perjury", while the Supreme Court failed to hold said attorneys in contempt of court, despite Petitioner, filed motion seeking sanctions against said attorneys. Because all courts denied Petitioner the constitutional right to be heard, Petitioner, sought certiorari with the United States Supreme Court, which was denied, in June 2007.
Misguided of it's own rules and laws, the simplicity of the matter at bar, and the laws and constitution of the United States, the Appellate Court of Georgia, in serious conflict of law, duplicated the matter, creating a second appeal case (AO7A0119) representing the merit of the case (A06A0916) which was previously dismissed, but most unlawful, the re-docketed case, (A07A0119) is an empty appeal case, containing nothing, no notice of appeal, appellate brief, enumeration of error, not a scintilla of pleading, facts of evidence, under which a competent tribunal can perfect a legal constitutional and binding decision, such act analogous to no other appellate matter, in recent judicial history. And in further act of lawlessness, the Appellate court, perfected ruling upholding the lower courts unlawful dismissal of Petitioner, law-suit, despite the legal fact, the lower courts decision was

perfected on fraudulent allegations and misconduct of Respondents State Farm and the illegitimacy of the re-docketed case now in question, before this court.

However, the substantial, legal issues, herein, which is of significant national importance to all cases, both current and future petitions before the United States Supreme Court, and will have a profound impact on the outcome of how this court views and decides unprecedented, erroneous, and constitutional matters, is of great significance, not only to pro- se litigants and attorneys but lower courts as well. to date, Petitioner currently awaits privilege to be heard, as all courts denied Petitioner equal protection of law. An act which is violative to the common laws of the United States

REASONS FOR GRANTING THE PETITION

THE CONSTITUTION OF THE UNITED STATES, FOUNDED IN THE FIRST AND FOURTEENTH AMMENDMENTS GUARANTEED EQUAL PROTECTION AND DUE PROCESS OF LAW, TO ALL AMERICANS, AND THE FUNDEMENTAL RIGHTS TO FREEDOM OF SPEECH. HOWEVER, THERE CAN BE NO CONSTITUTIONALLY, VALID, JUDICIAL DETERMINATION, RENDERED BY THE STATE OF GEORGIA, IN THIS PROCEEDING, WHEN THE CONDUCT AND DECISIONS OF GRORGIA COURTS, VIOLATES THE CONSTITUTION, WHICH IS THE SUPREME LAWS OF OUR LAND.

It is extraordinary, that in the year 2008, the state of Georgia, judicial system, continues, practicing laws consistent with those of the " Jim Crow" era, which guarantees, superior Protection of law to certain individuals, while on the contrary, deprives and prohibits others, of their fundamental rights to equality and justice before the courts. Petitioner contend, that the laws stringently, declares such acts, un-constitutional in our modern civilization.

This court is familiar with the history of Brown V. Board of Education, 347, US, 433 (1954), a landmark Supreme Court case in the 1950s. However, the legal legacy of Brown V. Board of Education, was not only about Children and education, the laws and principles struck down by the Supreme Courts decision, were product of the human tendency to prejudice, and discrimination against others, ending this behavior as a legal practice course for reaching social and ideological implication, which continues to be felt throughout our country and our courts. The Browns decision inspired and galvanized human rights struggles across our country and around the world. Certainly, what this legal challenge represents is at the core of the United States history and the freedom we enjoyed.

The Courts decision in Brown v. Board of Education, begins a critical chapter in the maturation of our democracy, which not only, guarantees equality and justice on an equal plane to all litigants before our court, but it re-affirms the sovereign power of the people of the United States, in the protection of their natural

rights from arbitrary limits and restrictions, imposed by states and local governments. Those rights are recognized in the declaration of independence and guaranteed by the constitution of the United States. However, one of the fundamental principle and fairness of the " due process law", is that all legal matters, both civil and criminal, especially in our courts, must be fair and impartial, all legal procedure must be set by statue and court practice, including notice of rights, and must be followed by each individual and officers of the court, so that no prejudice and unequal treatments will result. While somewhat indefinite to the terms can be gauged by it's aim to safeguard both private and public rights against unfairness. The Universal guarantee of "due process" in the 5th ammendment to the United States, the same American Constitution which provides" no person shall be deprived of life, liberty, or property without due process of law and apply to all states by the 14th ammendment, from their basic principles flows many legal decisions determining both procedural and substantive rights. However, one of the fundamental issue before this court, regarding this matter, pursuant to Georgia Constitution, **"Protection to people and property is the paramount duty of government and shall be impartial and complete, no person shall deprive equal protection,** is of great importance to the core foundation of the constitution, this court must now determines whether the lower courts decisions, were arbitrary decisions. As a matter of law, an "arbitrary decision" is a decision made "without regard for the facts and circumstances presented, connotes to a

BEST AVAILABLE COPY

disregard of the evidence presented". Petitioner contends, that the evidence and records of the Cobb County State Court, the the Appellate Court and Supreme Courts of Georgia, will substantiate, indisputable, Petitioner not only encountered arbitrary and prejudicial treatments, in one court, but in three consecutive courts regarding the same issue. And in further violations of State and federal laws,

THE APPELLATE COURT OF GEORGIA, IN SEVERE CONSTITUTIONAL VIOLATION, DISMISSED PETITIONER TIMELY FILED APPEAL AFTER TEN MONTHS OF DELIBERATION, MISSING A RULING ON ITS MERIT, AND FURTHER PERFECTED A FICTICIOUS COUTY RULING, FAULTING THE ENTIRE DISMISSAL, ON ALLEGATIONS OF MISSING TRANSCRIPT, WHICH LATER REVEALED TO BE FALSE.

The laws of our land and those of our great constitution, provides ' no person shall be deprived equal protection of law" and "no person shall be denied the rights to petition the government for redress of grievances,". Despite such statutory laws, the Appellate Court of Georgia, violates Petitioner state and federal constitutional constitution rights, denying, Petitioner the right to appeal. But further unlawful, the Appellate Court and its officers, involved in severe, un ethical and prejudicial acts, in the interest of Respondent State Farm and the lower court, incorporating, numerous strategic and unlawful acts, which hindered the due administration of law and justice from "impartial functioning". Among numerous violations, in the initial stages of the appeal, the clerk of the Appellate Court, Mr. William Martin

111, violated the rules of law in the course of exceeding his clerical authority, by unlawfully, exploiting the courts legal stationary, to commit severe wrong doings, by utilizing the United States Postal Service to convey a letter to State Farms attorney, falsely, informing said law-firm, "Petitioner appeal brief and enumeration of error was untimely filed".

The un-ethical conduct of the appellate clerk herein, violates, numerous civil, and criminal statues and codes of the state of Georgia, and federal laws as well. The record of the Appellate Court, undoubtedly proves, such engagement and statement of the Appellate Clerk, to be fraudulent, obstructing justice, conspiracy, mail fraud, fraud upon the court etc. As a matter of law, such tremendous judicial misconduct, has no place in our judicial system, and further, muddied the judicial process, casting a long and tedious shadow on Petitioner ability to obtain equality and justice before the court, tantamount to a direct attack upon Petitioner civil liberty.

However, it is clear, that the engagements of the appellate clerk, was to hinder Petitioner ability to appeal, in order to protect and concealed the un- ethical conduct of the lower court, and Respondent State Farm herein. In violation of the rules and civil procedures of the state of Georgia, and the Rules and cannons of Judicial Conduct, State Farm responded, by filing a motion with the court, seeking the unlawful dismissal of Petitioner law- suit, on the false allegations and recommendation of the Appellate

clerk Mr. William Martin 111, " Petitioner enumeration of error and legal brief were untimely filed. However, when these unethical acts failed, numerous unlawful procedures were illegally, pursued in obtaining the dismissal of Petitioner appeal. Ultimately, after ten months of deliberation, Partitioner appeal case was dismissed from the Appellate court, missing a ruling on its merit, which is a severe violation of §0.C.G.A 9-11-30, which provides: **"IT IS THE INTENTION OF THIS ARTICLE TO PROVIDING A PROCEEDURE IN TAKING CASES TO THE APPELLATE COURT, AS AUTHORIZED IN ARTICLE V AND V1 OF THE CONSTITUTION OF THE STATE OF GEORGIA; TO THAT END, THIS ARTICLE SHALL BE CONSTRUED SO AS TO BRING ABOUT A DECISION ON THE MERIT OF EVERY CASE APPEALED AND TO AVOID DISMISSAL OF ANY CASE OR REFUSAL TO CONSIDER ANY POINTS RAISED THEREIN, EXCEPT AS MAY BE SPECIFICALLY REFERRED TO IN THIS ARTICLE"** Reference, GA. Law 1965 Page 18 Sub. 23: GA. Law1983, page 3 Sub. 47.

It is imperative, that Petitioner, re-derate the fact that the same Appellate court, that deprived Petitioner of his fundamental and constitutional rights to appeal, incorporates in its legislative state laws, that, an appeal is an "automatic right to all citizens. However, one of the fundamental issue for this court to determine, is, if all citizens are equal in the eyes of the law, can the the state of Georgia, discriminates and hinder Petitioner the right to appeal? However, contrary to the conduct of the Appellate Court, the

constitution of Georgia, Article 1, Sec.1, Para. 1, provides," protection to person and property is the paramount duty of government and shall be impartial and complete no person shall be deprived equal protection of law". Furthermore, Petitioner will argue to this court, that the State of Georgia, did not adhere to its rules and constitution, not only was Petitioner, denied equal protection of law, but severely, prejudiced by the courts, constituting reversal err. Still yet, one of the most grievous act of conspiracy, concealment, and misconduct, in modern judicial history of the Appellate Court, occurred, as the Appellate Court, faulted the unlawful dismissal of Petitioner law-suit, on allegations of "missing transcript". But contrary to the Appellate Courts allegation and court ruling, thorough investigation into the allegations of "missing transcript" revealed to be fraudulent, as the lower court, whose responsibility it was to transport transcript and record to the Appellate Court, denied the Appellate Courts allegation, and provide a letter repudiating such allegations. But most disturbing, the alleged missing transcript was the very transcript which reveals the reckless conduct of the Presiding judge, in open court, as he exploded upon Petitioner Shellie Youhoing- Nanan, the female, pro- se counsel of record for Petitioner, violating her first ammendment right to freedom of speech, threatening to imposed instant sanction upon Mrs Nanan, if she insisted on been heard, inflicting, severe acts of public humiliation, discrimination, threats, and intimidation, upon

Petitioner, at the recommendation of state Farms attorney.

The conduct of the courts herein, violates numerous statues constitutional and criminal laws, as It is highly impossible that the very transcript which revealed the presiding judges conduct during the motion hearing where he violated Petitioner constitutional right in open court, which is the subject matter of Petitioner argument on appeal, material evidence, critical in substantiating Petitioner argument on appeal, which is a prima facie case for Petitioner in substantiating his case, has mysteriously, vanished without a trace from both the trial court and Appellate Courts record, but later re-appeared, months later, whenever its convenient for the courts to use such transcript in conduct contrary to court rules and laws, but despite such such huge contrariness, on the part of the Appellate Court, Petitioner received prior confirmation from the trial court, via United States certify mail, that said transcript was indeed transmitted to the Appellee court in accordance with §O.C.G.A. 5-6-43.

There is no question, that the conduct of the Appellate court, was aimed at mudding the appellate process, undermining the simplicity of the matter before the court, hindering Petitioner ability to appeal. However, it is a severe violation of law, for a court to willfully perfect rulings, under

false pretenses. This is not the first time the Appellate court perfected false rulings/ orders and court motions, in the interest of Respondents and the lower court, such engagements were initiated on numerous occasions, one of which intimidated Petitioner to dismiss the appeal, and also a ruling on a motion for reconsideration which Petitioner never perfect or filed in court record.

Title 18 U.S.C 1505, forbids anyone from "corruptly" influencing any proceeding before a department or agency of the United States, or congress. In 1996, the Unites Congress enact a clarifying ammendment to 18 U.S.C. 1515 which defines "corrupt" use in section 1505 to mean " acting with improper purpose, personally, withholding, influencing another, including, making false or misleading statement, concealing, altering, or destroying a document or information. The fundamental judicial history of our courts, as institution of law and justice, retroactive since the 17th and 18th century, incorporating the fifth ammendment to guaranteeing all American his/ her rights to "du process" of law. In conjunction to the fifth ammendment, the fourteenth ammendment, which was ratified since 1868, guaranteeing" no person shall be deprived due process and equal protection of law, however, the "due process clause in the fourteenth ammendment has also been interpreted by the United States Supreme Court, since the 20th century, utilized in incorporating protection to the "bill of right", so that those protection apply to states as well as

federal government.Thus the Supreme Court, by virtue of many pronunciations dealings with the constitutional requirements of statutory procedural, declares, that non-compliance with the "due process clause" of the United States in noncompliance with the "bill of right". Furthermore, such blatant violations on the part of the Georgia judicial system, not only unconstitutional, but constitutes moral obliquity" and ill will, which is violative to the constitution of of the United States.. Thus,Title 18 U.S.C. Sub. 2381 and Article 111 of the United States Constitution, defines "treason" as levying war against the United States.

Under federal law which is applicable in all states, the Supreme Court held that " no legislator or its executive or judicial officers can war against the constitution without violating his undertaking to support it". See Cooper v. Aaron, 358 U.S 1, 78, S, CT. (1958). This court further held, " if a court is without" authority its judgments and orders are regarded as nulities, they are not voidable but simple void, and from no bar to a recovery even prior to a reversal in position to them, they constitutes no justification. And all persons concerned in executing such judgment are considered, in law as "trespassers". See Elliot v. Piersol, Pet. 328, 340, 26 US 328, 340 (1828). Furthermore, the law provides that 'when a judge act, "when he does not have jurisdiction" or enforced a void order" not only is such judge" trespasser of the

law, he has engaged in treason", see 18 U.S.C. Sec. 2381.

This court, further held in Schever v. Rhoder 416US. 232, 94 S.1 CT 1683, 1687 (1974) " When a state officer act under a statue of law in a manner violative of the federal constitution he "comes into conflict with the superior authority of that constitution, and he is in that case, stripped of his official representative character and he is subjected in his person to the consequences of his individual conduct. The state has no power to impart to him any immunity from responsibility to the supreme authority of the United States. Furthermore, the law as defined in 18 U.S.C. 2381, "Treason" imports a betrayal of treachery, or breach of alliance. This court further held in Cooper v. Aaron, 358 US. 1, 78 S. CT 1401 (1958) " No legislator or executive or judicial officer can war against the constitution, without violating his undertaking to support it. This to say, " any judge who does not comply with his own oath to the constitution of the United States wars against that constitution and engages in acts in violation of the supreme laws of the land". See US v Will 499 US. 200, 216, 101 S CT. 471, 66, L ed, 392, 406 (1980) and Virginia 19 US. 264, 404, 5, L. ed, 257 (1821).

Petitioner will argue, that the failure of the Appellate Court to afford Petitioner his fundamental rights to an impartial appeal, which is a prima facie case, for Petitioner in proving his law-suit was unlawfully, dismissed by the lower court is unconstitutional,

constituting (reversal err).

Petitioner feel as did the laws and constitution which guaranteeing all American whether pro-se litigant or attorney a fundamental right to impartial judicial review, without the interfearances of officers of the court, and will argue affirmatively, that pro- se litigants are entitled to the full mantle and legal protection, under the United States Constitution; in the first place, it is the duty of the state of Georgia to apply equal protection of law and protect Petitioner, through its judicial process.

NEVER IN THE HISTORY OF JUDICIAL PROCEEDING CAN A COURT OF LAW, IN THE UNITED STATES PERFECT A SUBSTATIONAL RULING WHICH UPHOLDS A LOWER COURTS DECISION, ON AN EMPTY APPELLATE CASE FILE CONTAINING NOTHING, NO NOTICE OF APPEAL, ENUMERATION OF ERROR, LEGAL ARGUMENT. NOT A SCINTILLA OF EVIDENCE TO SUBSTANTIATE SUCH RULING.

Petitioner was relying deeply on the implementation of the Civil Rights laws, founded in Sec. 40- c- (2), which declares" violation of one's civil right occurs when a person is subjected to any discrimination in his civil right or to harass in the free exercise thereof by any institution or the state". Petitioner further re-derate that such violation is declared a federal crime under the laws and constitution of the United States.

Among numerous acts of constitutional violation contained in this petition, the Appellate Courts decision inflicted even graver

injustices as the content of the decision, contained extra judicial statements, in direct violation of the code of judicial conduct, furthermore, the justices in their written decision, prejudicially , criticize, and directly attacked Petitioner credibility, while on the contrary, upholds and conceals the un-ethical conducts of Respondent State Farms attorneys. Most unlawful, the entire content of the decision contains fraudulent allegations, based on the notion that said decision was rendered arbitrarily, on an empty appeal case file containing no legal argument or brief that would substantiate the courts decision .

Petitioner vehemently and affirmatively denied , and further challenges the Appellate Court to provide a scintilla of evidence to substantiate the allegations contained in its ruling which, substantially, fails to addressed the critically, material, issues, clearly, outlined in Petitioner appeal brief and enumeration of error. However, due to the unlawful conduct of the justices herein, the appellate clerk, failed to signature the ruling, the great seal and certification of the Appellate Court which is a mandated and statutory requirement of state law, was also missing from the ruling, further nullifying the ruling. As reference, a copy of said decision is founded in Appendix "d" of this petition.

As a matter of law § O.C.G.A.5-6-10 provides:

"THE DECISION OF THE APPELLATE COURT AND ANY DIRECTION AWARDED IN THE CASE SHALL

BE CERTIFIED BY THE CLERK TO THE COURT BELOW, UNDER THE SEAL OF THE COURT." As this court will verify from Appendix "d" such ruling contains, no such certification or seal.

The fact of the matter is that Appellate Court failed to abide by the rules of law. In this case, Petitioner will argue affirmatively, to this court, if the decision which upholds the lower Courts dismissal of Petitioner law-suit is unlawful, the entire ruling of the Appellate Court is declared nullity as a matter of law. The United States Supreme Court held " whenever an officer(s) commits fraud during a proceeding in the court he or she is engaged in" Fraud Upon the Court", see Bulloch v. United States, 763, F 2d, 1115, 1121, (10th , Circuit) (1985); Kenner v. Cir,387, F. 3D, 689, (1968) . Also see 7 Moore Federal Practices, 2 d ed. p. 512p 60. 23, and further held " A decision produced by Fraud Upon the Court is not in essence a decision at all, and never become final. Fraud upon the Court "makes void the order and judgment of that court. It is also clear and well-settled law that any attempt to commit Fraud upon the Court" Violates the entire proceeding, see The people of state of Illinois v. Fred E. Sterling 357, 111, 354, 192, N.E, 229 (1934).

Moreover, the rules of conduct awards a judge the rights to volunteerely recused from presiding over a case when it become obvious that the judges partiality would affect his ability to perfect an impartial ruling.

In 1994 the United States Supreme Court held

"disqualification is required if an objective observer would entertain reasonable questions about a judge impartiality. If a judge attitude or state of mind leads a defect observer to conclude that a fair and impartial hearing is unlikely, the judge must be disqualified. (Emphasis added), see Liteky v. U.S 114 S. Ct. 1147, 1162, (1994). Furthermore, courts has repeatedly held, that positive proof of the partially of a judge is not a requirement only the appearance of partiality, see liljeberg v. Health Services Acquistation Corp. 486, U.S. 847, 108 S CT 2194, (1988); United States v. Ballstrieri 779, F. 2d 1191 (7th Cir. 1985). Pursuant to Section 455 (a) of Judicial Code 28 U.S.C. Sec. 455 (a), this provision is not intended to protect litigants from actual bias in their judgment , but rather to promotes public confidence, in the impartially of the Judicial Process , see Taylor v. o' Grady 888 F.2d 1189, (7th Cir. 19890) . Petitioner further relies on the words of the 8th circuit court, in Pfizer Inc. v. Lord 456, F. 2d, 532) 8th Cir 1972) which held:

"IT IS IMPORTANT THAT THE LITIGANT NOT ONLY ACTUALLY RECEIVE JUSTICE BUT THAT HE BELIVES THAT HE HAS RECEIVED JUSTICE".

The law further provides " should a judge not disqualify himself, that judge is in violation of the Due Process Clause of the constitution and further engages in treason. Also see United States v. Sciuto, 521F, 2d 842, 845(7th Cir. 1996), and provides that the right to a tribune frec from biasness / prejudice is based,

not on section 144, but on the "Due Process Clause. Should a judge issue an order after he should be disqualify by law, as demonstrated in this matter, and if the party has been deprived of rights, due process, or property, then the judge may be engaged in " Federal Crime" "Interfering with Interstate Commerce" the judge has acted in his personal capacity and not in judicial capacity, that judge acting in such manner, has no more lawful authority than the next door neighbor.

Furthermore, the unlawful acts of fraud upon the court, conspiracy, obstruction of justice, on the part of the justices of the Second Appellate Division of Georgia is prohibited as a matter of law, therefore, subjects the judiciary to disrepute. Title 18U.S.C 371 "conspiracy to defraud the United States". The general conspiracy statue in 18 U.S.C. 371 creates an offense, if two or more persons, conspired, either to commit any offense against the United States , or any agency, in any manner, as did in Henkel, 216, US. 462, (1910) and Hammerschmidt v. United States, 265, US. 182 (1824). The law provides" any conspiracy which is calculated to abstract or impair its efficiency and destroy the value of its operation and report a fair, impartial and reasonable accurate would be defraud the United States by depriving it of its lawful right and duty of promulgating or diffusing the information so officially acquired the way and at the time required by law or departmental regulations. " Moreover, section 371 reaches " any conspiracy for purpose of impairing, obstructing, or defusing the

lawful functions of any department or government is unlawful, see Turner v. State.384 US. 107, 128, (1987); Denis v. United States, 384, US. 855 (1966). The law further provides "the defraud part of section 371criminilized any willful impairment of a legitimate function of government whether or not the improper act or objective are criminal under another statue, see United States v. Tuohey, 867 F. 2d , 537 (9th Cir. 1989).

THE SUPREME COURT VIOLATIONS

ONE OF THE MOST GRIEVOUS ACT OF PREJUDICE AND SEVERE CONSTITUTIONAL VIOLATION IN MODERN JUDICIAL HISTORY, IS THE FACT THAT STATE FARM INSURANCE A MAJOR CORPORATION WAS OBLIGED PRIVILEGES WHICH UTILIZES THE LEGAL ADMINISTRATION OF THE SUPREME COURT OF GEORGIA TO THREATEN, HARASSED, OPPRESS, AND INTIMIDATES PETITIONER FROM FILING FUTURE PETITION WITH THE COURT, AND FURTHER INSTRUCT THE COURT TO FINE PETITIONER THE SUM OF TWENTY FIVE HUNDRED DOLLARS (2,500.00), AS RETALIATION DUE TO THE FACT PETITIONER REVEALED THE UNLAWFUL CONDUCT OF THE COURTS AND JUSTICES INVOLVED.

It is a profound violation of law that the Supreme Court of Georgia, a legal body, would fail its constitutional duties in light of the severe violations, wrongly inflected upon Petitioner, a litigant before the court, at the hands of Respondent State Farm (a major corporation) and the lower courts. While on the Contrary,

extending unequal protection of law to Respondent State Farm Fire & Casualty, inflicting grave acts of prejudice and profound injustices upon Petitioner.

In further serious violation of law, State Farms attorneys were obliged the unlawful privileges which denies both Petitioner were deposed at its law-firm, an act which is not only fraudulent but materially significant to the subject matter of Petitioner argument on appeal, critically imperative in overturning the lower courts dismissal of Petitioner law- suit, but under the supervision of the Supreme Court of Georgia, State Farms attorneys were allowed to continue such denial, filing numerous fraudulent pleadings in court record, which includes, swearing falsely under oath which is "perjury", but most unlawful, these identical violations were demonstrated repeatedly by Respondents at the lower courts level, still yet, the the Supreme Court, violated Petitioner state and federal constitutional right, turning a blind eye to the injustices and legal abuses

In further acts of lawlessness, despite Petitioner filed overwhelming proof deposition occurred (deposition transcript) in the original proceeding, the Supreme Court, violated Petitioner civil right, accepting the false allegations of Respondent State Farm, ultimate fact, failing to consider any argument or material evidence, filed by Petitioner. Subsequently, Petitioner moved the Supreme Court for an "order to show cause" why State Farms attorney should not be held in contempt of court for these severe

acts, even in light of the ongoing act of perjury, committed near the court, again, the Supreme court failed its duty under the law, denying Petitioner motion for sanction, failing to hold said attorneys in contempt of court, while on the contrary, conspired with Respondent to utilize the legal administration of the Supreme Court to threaten, oppress, intimidates Petitioner, while the court remained silent. Despite such blatant act of lawlessness, Respondent has admitted in a motion filed with the court, to the acts of perjury and other sever criminal wrongdoing.

For the first time in three and a half years, Respondent was forced to admit its law-firm conducts deposition of Petitioner Shellie Youhoing- Nanan, but continues to deny Petitioner Mahabir Nanan was deposed, an admittance which is significant to the outcome of this proceeding, constituting reversal err. Upon motion, coupled with the filing of proof Mr. Nanan was deposed, Petitioner, moved the court to compel State Farm to file proof of deposition, which is material evidence, once again the Supreme Court conspired with Respondent to withhold material evidence from the court.

The seriousness of such act not only violates the United States Constitution and its ammendments but also violates Rule 3.4 of the Code of Judicial Conduct, "fairness to opposing party or counsel" which provides as follows:

" a lawyer should not or willfully alter, destroy, or conceal a document or other material having potential evidentiary value or willfully obstruct another party's access to evidence.

Thus, Title 18, U.S.C. 1503, 1505, 1512 " perjury and subornation" defines as " false declaration before a court, however, because false declaration affects the integrity of fact finding, the Attorney General recommends that such offense be vigorously perused, See Unites States v. Mandujano, U.S 564, 575 (1976); United States v. Debrow 346, U.S. 374, 277 (1953). also see, U.S. C1623, 1628 and 1746.

In light of the repeated state and federal violations, and the blatant failure of the Supreme Court to hold Said attorneys in contempt of court, as required by law, in the presence and supervision of the Supreme Court of Georgia, Respondent was obliged the right and privileges to file a motion, threatening, intimidating, harassing, Petitioner from filing further petition with the court and instruct the court to fine Petitioner the sum of twenty five hundred dollars, in penalty as retaliation, due to Petitioner revealed the injustices and un-lawful conduct of Respondents and the justices involved. Not only is such conduct retaliatory and illegal, but it has no place in our court in today's modern society, such act also violates Petitioner first and fourteenth ammendment entitlement to equal protection, due process of law, freedom of speech, and the rights to petition the government for redress of grievances, an act which is contrary to the core foundation of our

constitution which is the supreme law of our land.

UNDER NO POSSIBLE STANDARD OF LAW CAN A COURT IN THE UNITED STATES INTIMIDATES OR CONSPIRE TO PUNISH, OPPRESS, THREATEN, OR TO DEPRIVE OR CAUSE TO DEPRIVE CITIZENS IN THEIR PERSUIT FOR EQUALITY AND JUSTICE BEFORE THE COURT AT THE RECOMMENDATION OF COUNSEL FOR THE OPPOSING PARTY.

THIS IS THE SECOND PETITION BEFORE THIS COURT.

In this case,the Appellate Court of Georgia, among numerous legal errs, perfecting multiple appeal cases, representing the same issue simentaniously, and Petitioner longly argued that not only does such act unlawful, it is also unprecedented in modern judicial history. This case is precedent in numerous judicial aspects. And also the fact, that the second re-docketed, appeal case, is an empty case file, containing nothing, no notice of appeal, enumeration of error, legal brief, not a scintilla of pleading facts or evidence that a reputable tribunal in the United States can perfect a legal binding ruling. Despite such profound violation of law, the Appellate Court of Georgia perfected an arbitrary ruling upholding the lower courts unlawful dismissal of Petitioner law-suit, forcing Petitioner to file this appeal requesting that such unlawful ruling be overturned as a matter of law.

CONCLUSION

Who would have anticipated, in the year 2008, in our

modern American society, Petitioner, legal citizens of the United States, would be denied equal protection of law repeatedly, and the rights to be heard before the courts, and to be harassed, intimidated, in the free exercise of their constitutional rights. Encountered numerous acts of prejudice, arbitrary rulings, and other severe violations of their civil rights, at the hand of numerous courts, in the state of Georgia. And further subjected to severe reprisal by the Supreme Court of Georgia, for standing up against inequality and injustices, while on the contrary, Respondent, a major corporation, enjoyed superior protection of the very laws which declares" all men are equal before the law".

It is critically imperative, and will be of grave national importance, that this court, applies clarity to such tremendous err in law, so that the fundamental laws, principles, and integrity of the constitution of the United States, will be preserved as the sole Supreme laws of our land.

To date, Petitioner faces the possibility of huge fine in the amount of twenty five hundred dollars, first and fourteenth ammendment violations, which would prohibits Petitioner from filing further petitions before the court, and unlawfully inflict severe financial and undue burden upon Petitioner, while Respondent State Farms attorneys, whom involved in severe repeated acts of fraud and criminal wrongdoing before the courts, acts which includes, numerous acts of false swearing under penalty of perjury, filing numerous fraudulent pleadings and motions in

court record, abusing the legal processes of the courts, utilizing the legal administration of the Supreme Court to threaten, intimidates, and violates, Petitioner civil right, while all courts turned a blind eye to such profound injustices. Petitioner re-derate the importance that such profound, unlawful unprecedented, legal brutality, is un-American, holds no place in our modern society, and must be repelled. This court, united States Supreme Court, has the superior jurisdiction to grant Petitioner an equal opportunity to be heard, as the lower courts with their great influences, blocked every natural right, guaranteed to petitioner, under the United States constitution to be heard. Nevertheless, Petitioner strongly relies on the words of the Hon. justice Clarence Thomas, in a 2004 dissent "An initial matter, it is possible that the "Due Process Clause" requires only " that our Government must proceed according to the laws of the land- that is according to the written constitution and statutory provisions". (in re. Winship, 397 U.S. 382 (1970) (Black, J dissenting).

The fundamental question this court must determine, is whether petitioner, legal citizens of the United States, whom has been stripped of all legal rights before the lower courts, entitled to due process, equal protection of law, pursuant to the United States constitution and its ammendments. The most grievous and vile, act of human cruelty, and profound injustice is the fact that almost six years after the devastated fire disaster which destroyed Petitioner

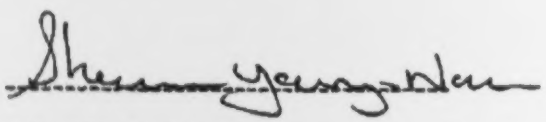
home, Respondent State Farm failed to pay the claim, forcing Petitioner to borrower tens of thousands of dollars in loans to rebuild his home, and in further acts of cruelty, Respondent conspired with the lower court to violate Petitioner right to insurance compensation. Thus, Title 18,U.S.C. Sec. 241 & 242, declares it unlawful, in most cases a "Federal Crime" for anyone operating under color of law, to willfully deprive or cause to be deprive from any person those rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or for two or more persons to conspire to injure, oppress, threaten, intimidate, any person of any territory, or district in the free exercise or enjoyment or rights or privilege secured to him/ her by the United States Constitution.

Upon meticulous review of this honorable court, it is respectfully recommended that this court weighs the statutory and constitutional consequences of continuing such denial, with reasonable understanding that this is Petitioner final opportunity in obtaining equality and justice in this matter. Denying this petition, would convey the wrong message to major corporations/

insurance companies and courts around the world, that it is safe to violate citizens civil liberty, without due rc precaution. It is also respectfully recommended, that this court, apply deep consideration to the words of numerous civil rights icons and victims of many unlawful oppression and the "Golden Rule" of law, which states as follows, "an injustice anywhere is always an injustice everywhere" and" no person is above the laws of the united States".

WHAREFORE, Petitioner prays that a writ of certiorari be granted to review this matter.

Respectfully, submitted on this 23, day of May 2008.



Shellie Youhoing- Nanan
Mahabir Nanan/ Pro- se Counsels
of record for Petitioner.

445 Staten Street, Jonesboro
Ga. 30238.

(770) 603-6573

APPENDIX

APPENDIX A

IN THE STATE COURT OF COBB COUNTY

STATE OF GEORGIA

MAHABIR NANAN AND	}	
SHELLIELLE YOUHOING	}	Civil Action
Vs.	}	File N0.
STATE FARM INSURANCE	}	04-A-5606-5
COM PANY,	}	
DEFENDANT COUNTR CLAIMANT	}	
THIRD –PARTY PLAINTIFF- IN	}	
INTERPLEADER	}	
Vs.	}	
CARL BOSTIC, INC. dba AFFORDABLE	}	
HOME IMPROVEMENT;		}
GOODMAN= GABLE- GOULD/	}	
ADJUSTERS INTERNATIONAL;	}	
AND REGIONS MORTGAGE.	}	

ORDER

This court comes before the court on Defendant State Farm fire and Casualty Company's second and supplemental motion for sanction Against Petitioners. The Court has

reviewed the motion and the Plaintiff's responds and rules as follows:

On July 18, 2005 both parties come before the court for a hearing on, among other things, Defendant State Farm's motion for sanction against Plaintiffs for their repeated failure to make themselves available for depositions and to make their home available for inspection by Defendant. Prior to this hearing the court had ordered the Plaintiffs multiple times to make themselves available for depositions and to make their home available. Contrary to the Court's ruling Plaintiff had not done so. At the hearing of July 18, 2005 the Court informed Plaintiffs it would give them one final chance to comply with the Court's order in this matter. As such , the Court ordered Plaintiff's to make their home available for inspection by Defendants on August 1, 2005 at 10:00 am. Plaintiffs indicated in open Court that they understood the Courts order.

Subsequently, on July 27, 2005 Plaintiff filed an untimely Objection to State Farm Insurance Inspection of Plaintiffs

Home (sic). Not only was the objection untimely in that it occurred after July 18, 2005 hearing, it was also filed well after State Farm's original Notice of Inspection sent Decmber December 22, 2004.

Defendant State Farm presented evidence to the court that counsel for Defendant appeared at Plaintiff home for the Court Ordered inspection on August 1, 2005 at the scheduled time that morning and furthermore, Defendant counsel was prepared to depose Plaintiff at his office at the Court ordered time on August 5, 2005 and Plaintiff failed to be deposed.

Defendant subsequently filed this motion for sanction against Plaintiffs and the Plaintiff have responded. The Court has reviewed Plaintiff responses and finds Plaintiff have presented no basis of justification for ignoring the Court's order on these matters, The Plaintiffs have repeatedly abused the discovery process and willfully refused to respond to discovery request and this Court's order to comply. The Plaintiffs were warned by the Court at the July 18, 2005 hearing that the failure to comply with the Court Orders could

result in sanctions. Therefore, Pursuant to O.C.G.A.9-11-37, the Court has no choice but to grant Defendant's motion for Sanctions. Plaintiff's claim against State Farm Fire and Casualty Company is hereby DISMISSED with Prejudice.

SO ORDERED THIS 25 DAY OF August 2005.

s/ DAVID P. DARDEN JUDGE

STATE COURT FOR COBB COUNTY

APPRNDIX B

COURT OF APPEALS OF GEORGIA

334 STATE JUDICIAL BUILDING

ATLANTA GEORGIA 30334

(404) 656- 3450

Business Hours: Monday- Friday, 8:30 am to 4:30 p.m.

NOTICE OF DOCKETING

Mr. MAHABIR NANAN

445 STATEN STREET

JONESBORO, GA 30238

APPEAL CASE NUMBER: A06A0916 DATE OF DOCKETING: DECEMBER 30, 2005 STYLE: MAHABIR NANAN ET AL V. STATE FARM FIRE AND CASUALTY COMPAMY

IMPORTANT RULE REQUIRMENTS AND INFOR-MATION

Appellant's brief, including as Part 11 an Enumeration of Errors, shall be filed within 20 days of docketing. No

appellant's brief shall be received for filing without the $80.00 filing see or sufficient pauper's affidavit.

Appellee's brief shall be filed within 40 days after the docketing date or twenty days after the filing of the appellant's brief, whichever is LATER.

Failure to timely file briefs or to follow any Court rules or orders may cause the appeal to be dismissed or may cause non- consideration of the brief, and may subject the offender to contempt.

The contents of a properly addressed registered or certified mailing shall be deemed filed on the U.S. Postal Service hand stamped, postmark date if it is stamped on the envelope or container. A document received from an overnight delivery service is deemed filed on the date it was delivered to the Post Office or commercial delivery company as showed by the receipt of the U.S Postal Service or overnight delivery Company.

Motions for reconsideration are deemed filed on the date actually received in the clerk's office.

If oral argument is requested and approved by this Court this case will be scheduled for oral argument on April 06,

Before the SECOND DIVISION: Johnson, PJ, Miller, J, Ellington, J A printed calendar showing the exact date of

argument will be mailed to counsel of record. If a calendar is not received at the least ten days prior to the tentative oral argument date, contact the Clerk's Office.

There shall be no communications relating to pending appeals to any judge or member of the judge's staff.

FOR MORE INFORMATION CONTACT OUR WEBSITE AT WWW.GAAPPEALS.US. IF YOU HAVE A QUESTION OR PROBLEM, PLEASE CALL THIS OFICE.

WILLIAM L. MARTIN, 111, CLERK

APPENDIX C

COURT OF APPEALS OF GEORGIA

334 STATE JUDICIAL BUILDING

ATLANTA GEORGIA 30334

(404) 656- 3450

Business Hours: Monday- Friday, 8:30 a. m. to 4:30 p.m.

NOTICE OF DOCKETING

Mr. MAHABIR NANAN
445 STATEN STREET
JONESBORO, GA 30238

APPEAL CASE NUMBER: A07A0119 DATE OF DOCKETING: AUGUST 29, 2006 STYLED: MAHABIR NANAN ET AL V. STATE FARM INSURANCE COMPANY

IMPORTANT RULE REQUIREMENTS AND INFORMATION

Appellant's brief, including as Part 11 an Enumeration of Errors, shall be filed within 20 days of docketing. No appellant's brief shall be received for filing without the $80:00 filing fee or sufficient pauper's affidavit.

Appellee's brief shall be filed within 40 days after the docketing date or 20 days after the filing o the appellant's brief, whichever is LATER.

APPENDIX D.

SECOND DIVISION
JOHNSON, P.J,.

PHIPPS AND MIKELL, JJ.

June 29, 2007

In the Court of Appeals of Georgia

A07A0119. Nanan et al v. State Farm Insurance Company.

PHIPPS, Judge.

Mahabir and Shellielle Nanan sued State Farm Fire & Casualty Company for failure to pay a claim they made under their homeowner's policy. State Farm denied the claim because of Nanans' failure to comply with certain provisions of policy. The State Court dismissed the Nanans' complaint because of their refusal to comply with the courts's discovery orders. The Nanans have filed this pro se appeal. Because they have failed to carry their burden of showing error in the judgment appealed, we affirm.

The Nanans brought the suit against State Farm on June 18, 2004, seeking $190, 787.28 in damages based on State Farm's failure to compensate them for losses caused by fire to their home. State Farm answered the complaint on July 16, asserting numerous defenses based on the Nanans non-compliance with provisions of the policy by failing to submit

a signed, sworn, proof of loss with supporting documentation and by refusing to make their home available to State Farm for inspection.

It appears from the record that on December 22, State Farm filed notices to take the Nanans depositions and inspect their home. But after receiving an objection from the Nanans, State Farm filed amendment notices scheduling the inspection for January 10 and the deposition for January 11, according to State Farm; the inspection did not take place because the Nanans did not permit entry into their home on January 10 and failed to appear for their deposition the next day.

After conducting a hearing on State Farm's motion to compel in April 2005, the Trial Court entered an order in May compelling the Nanans to appear for the taking of their depositions on or before May 27 and permit their home to be inspected by State Farm prior to taking of their depositions. The order also provided for the imposition of sanctions, including dismissal of the Nanan's depositions and inspects their home in conformity with the time frame in the court's order. But this time the Nanans informed State Farm, both in writing and in a telephone conversation that they would not be available to permit inspection of their home or to appear for their depositions in June. Yet after counsel for State Farm informed the court reporter and other parties that the depositions had been cancelled, the Nanan appeared at his

office at the time for which the depositions had been scheduled.

On May 31, State Farm filed a motion seeking dismissal of the Nanan's complaint as a sanction for non- compliance with the Court's discovery order. After the Nanans filed various counter motions, a hearing was conducted in July, at the hearing; the court ordered the Nanans to make their home available for inspection on August 5. The court carefully explained to the Nanans that it was giving them one last chance to comply with State Farm's discovery requests and that no additional chances in the scheduling of their depositions or home inspection would be permitted without court order. In conformity with the court's order, State Farm Filed notices to take the Nanan's deposition and inspect their home at the time specified by the court.

On August 2, State Farm filed a motion for sanctions on the ground that, without having obtained any protective order, the Nanans had refused to allow their home to be inspected on August 1, In support of its motion, State Farm submitted a copy of an objection that it had received from the Nanans and an affidavit containing sworn testimony by State Farm's counsel. On August 10, State Farm filed a supplementary notion for sanctions on the ground that the Nanans had not appeared for their deposition on August 5. The

supplementary motion was also supported by counsel's affidavit, among other things.

The Nanans filed a response to State Farm's motion, alleging that they had appear for their scheduled depositions and denying State Farm's claim that they had refused to make their home available for inspection. Appended to the Nanans' response were various exhibits, such as an unsigned court order prohibiting State Farm from conducting the inspection of the Nanas home. But none of the exhibits supported the allegations in the response. The court later entered an order dismissing the Nanans' complaint with prejudice because of their unjustified failure to comply with the court's order.

The Nanans filed a timely notice of appeal. Because a copy of the transcript of the July 2005 hearing was not including in the appellate record, we remanded the case to the trial court so that a complete record could be prepared and the appeal re-docketed. Apparently dissatisfied with the remand, the Nanans filed a petition for Writ of Certiorari that the Supreme Court of Georgia denied. Meanwhile, the record was completed on the case re-docketed, after which the Nanans filed a motion to dismiss the appeal. We treated that the motion as a motion to withdraw the appeal. And we granted it. The Nanans, However, filed a brief objecting to that, so

we entered an order vacating the withdrawal order and reinstated the appeal.

1. The Nanans claim that, contrary to the trial court's finding, they were in fact deposed on August 5. By sworn affidavit, however, counsel for State Farm has averted otherwise. And the Nanans has presented no affidavit or any other evidentiary material contradicting counsel's testimony. State Farm, therefore, carried its burden of showing by the record that the court erred in finding otherwise.
2. The Nanans contend that the court erred in dismissing their complaint as sanction for noncompliance with the discovery order without first conducting a hearing {1} In the essence, what the law contemplates under OCGA 9111- 37 is a two- step proceeding before the ultimate sanction of dismissal may be imposed. First, a motion to compel must be filed and granted.

   See, e.g. Wiimbley v. Washington Mut. Bank, 271 Ga. App. 477, 478 (610 SE 2d 124 (2005).

   Second, after the party seeking sanction notifies the court and the obstinate party of the latter's failure to comply with the order granting the motion to compel and of the moving party's desire for the imposition of sanctions, the trial court may apply sanctions after giving the obstinate party an opportunity to be heard

and determining that the obstinate party's failure to obey was willful.

(T)he trial court need not conduct a hearing on the issue of

Willfulness in every case. Such a requirement serves no purpose where the trial court can otherwise determine willfulness on the part of the party against whom the sanctions are sought. For example, in a case where a trial court has already conducted a hearing on a prior motion to compel, the record may already contain enough evidence of the obstinate party's willful behavior that any hearing on the issue of willfulness would simply be duplicative.

The record here amply shows the Nanan's willful noncompliance with the court's May and July 2005 discovery orders after they had appeared at hearing that preceded entry of each order, and the Nanans filed heir responses. Viewing the motions, the responses, and material supporting each, the court, without

McConnell v. Wright,----- Ga. ----- (Case No. S06G2026; decided April 24, 2007)(Citation and punctuation omitted).

Conducting yet another hearing, was authorized to find the Nanans in willful noncompliance with the court's final discovery order and to dismiss their complaint.

3. The Nanans charge the trial court with error in dismissing their complaint during the pendency of a motion they had filed for recusal of the trial judge. The Nanans filed their recusal motion after the July 2005 hearing. In the motion, they complained of the court's bias and prejudice toward them. But thuse claims find no support in the record. Moreover, the motion was not supported by any affidavits. And the motion, not filed until July, alleged grounds for disqualifications that the Nanans would have first learned of in May. As such, the motion was neither timely nor legally sufficient. Therefore, the court did not err in disregarding the motion and continuing to act upon the merits of the case.

4. The Nanans complain of State Farm's failure to abide by rules in OCGA §§ 9-11-26 in making its requests for inspection of their home. The Nanans have not, however, carried their burden of showing by the record that State Farm committed any rule violations. Nor does the record reflect any objections by the Nanans to any of State Farm's discovery request on any of these grounds.

See generally Woods v. Gatch, 272 Ga. App. 642 (613 SE2d 187) (2005)

. See Uniform Superior Court Rule 25.1 – 25.3.

5. Similarly, there is no support in the record for the Nanan's complaint that the court forced them to prosecute this case without representation by counsel.

Judgement affirmed. Johnson, P.J., and Mikell, J., concur.

APPRENDIX E

SUPRME COURT OF THE STATE OF GEORGIA

CLERK'S OFFICE

ATLANTA

Date: January 08, 2008

Shellielle Nanan

445 Staten Street

Jonesboro, Ga. 30238

Case No. S07c0053

Mahabir Nanan et al, v. State Farm Fire and Casualty Company.

Court of Appeals CASE NO. A07A0119

The Supreme Court today denied the petition for certiorari in this case.

All the Justices concur.

Therese S. Barnes, Clerk

APPENDIX F

CASE NO. SO7C1748 Atlanta, February 25, 2008

The Honorable Supreme Court met Pursuant to adjournment.

The following order was passed.

Mahabir Nanan et al. v. State Farm Fire & Casualty Company

Upon consideration of the Motion for Reconsideration filed in this case, it is ordered that it be hereby denied.

SUOREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I hereby certify that the above is a true extract from the minutes of the Supreme Court of Georgia. Witness

my signature and seal of seal hereto affixed the day and year last above written.

s/ Therese S. Barnes, Clerk

APPENDIX H.

IN THE STATE COURT FOR THE COUNTY OF COBB

STATE OF GEORGIA

MAHABIR AND SHELLIELLE NANAN
Plaintiffs and Defendants in Counterclaim

VS.

STATE FARM INSURANCE COMPANY

Defendant, and Plaintiff in Counterclaim and Third Party Plaintiff- In Interpleaded,

CERTIFIED -COMPRESSED- COPY

VS.

CARL BOSTIC d/b/a AFFORDABLE

Home Improvement, Goodman – Gable – Gould / Adjusters International, and Regions Mortgage, Inc.

Third –Party Defendant- In – Interpleaded.

DEPOSITION OF SHELLIELLE NANAN

August 5, 2005 1:50 p.m.

Swift , Currie , Mcghee & Hiers

Suite 300 Atlanta, Georgia

Kimberly Stewart , RPR, CCR-B -1922

s/ TIFFANY ATA ALLEY
400 Perimeter Center Terrace, Suite 900, Atlanta, Georgia 30346

CERTIFICATE

STATE OF GEORGIA

COUNTY OF FULTON

I hereby certify that the foregoing transcript was taken down, as stated in the caption , and the colloquies, question, and answers were reduced to typewriting under my direction; that the transcript is a true and correct record of the evidence given.

I further certify that I am not a relative or employee or attorney of any party, nor am I financially interested in the outcome of the action.

Disclosure pursuant to OCGA 15-14-37 (a) & (b): The party taking this deposition will receive the original and one copy based on our Standard and customary charges, copies to the other Parties will likewise be furnished at our standard

and customary charges. A financial discount will not to be given to any party to this litigation.

This the 12th day of August , 2005.

s/ KIMBERLY STEWART, RPR, CCR –B- 1

THE 1 ST AMENDMENTS TO THE CONSTITUTION

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the rights of the people peaceably to assemble, and to petition the Government for a redress of grievances.

THE 14TH AMENDMENT TO THE CONSTITUTION

All persons born or naturalized in the United States, and are subjected the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce ant law which abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The 9TH AMEMDMEMT TO THE CONSTITUTION

The enumeration in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

THE CIVIL RIGHT ACT 40- C- (2)

Violation of one's Civil Right occurred when a person is subjected to any discrimination in his civil right or harasses,

in the exercise thereof, by any other person institution, or the state.

ARTICLE 111 OF THE UNTTED STSTES CONSTITUTION

Treason against the United States shall consist only in levying war against them.

THE CONSTITUTION OF GEORGIA ARTICLE 1, SEC.1, PARAGRAPH 1

Protection to person and property is the paramount duty of Government and shall be impartial and complete no person shall be deprived equal protection of law.

RULE 3.4 (CODE OF CONDUCT) FAIRNESS TO OPPOSING PARTY OR COUNSEL.

A lawyer shall not or willfully alter, destroy, or conceal a document or other material having potential evidentiary value or willfully obstruct another party's access to evidence.

TITLE 18 USC, SEC. 242 "DEPRIVATION OF RIGHT UNDER COLOR OF LAW".

This statue makes it a **crime** for any person acting under color of law, to willingly deprive or cause to be deprived from any person those rights, privileges, or immunities secured or protected by the Constitution and laws of the United States.

TITLE I8 USC, SEC. 241 "CONSPIRACY AGAINST RIGHTS"

This statue makes it unlawful for two or more persons to conspire to injure, oppress, threaten, intimidate any person of any state, territory or district in the free exercise or enjoyment or rights or privilege secured to him/ her by the Constitution or the laws of the United States.

THE CODE OF JUDICIAL CONDUCT

Judges shall adhere to every party or that party's lawyer an opportunity to be heard according to the law.

CODE SECTION 1-3-6 OF GEORGIA CODES

After they take effect the laws of the state are obligatory upon all the inhabitants thereof, ignorance of the law excuses no one.

107

(2)

No. 08-266

Supreme Court, U.S.
FILED
SEP 29 2008
OFFICE OF THE CLERK

In The

Supreme Court of the United States

MAHABIR NANAN, *et ux.*,

Petitioners,

v.

STATE FARM FIRE AND CASUALTY COMPANY,

Respondent.

On Petition For Writ Of Certiorari To The Georgia Court Of Appeals

BRIEF FOR RESPONDENT STATE FARM

MARK T. DIETRICHS
Counsel of Record
WILLIAM W. DOWNS
SWIFT, CURRIE, MCGHEE & HIERS, LLP
1355 Peachtree Street, Suite 300
Atlanta, GA 30309
(404) 888-6127

COCKLE LAW BRIEF PRINTING CO. (800) 225-6964
OR CALL COLLECT (402) 342-2831

QUESTIONS PRESENTED

There are no questions properly before this Court.

RULE 29.6 STATEMENT

State Farm Fire and Casualty Company is a wholly owned subsidiary of State Farm Mutual Auto Insurance Company.

OPINIONS AND ORDERS

The Georgia Court of Appeals decision is reported at *Nanan v. State Farm Fire and Casualty Co.*, 650 S.E.2d 283, 286 Ga. App. 539 (Ga. App. 2007). The Georgia Supreme Court's denial of Petitioners' writ of *certiorari* is unreported, but located at Pet. App. Appendix E. The Georgia Supreme Court's denial of reconsideration is also unreported.

Petitioners have raised these same issues in a previous petition before this Court in Docket No. 06-1693. This Court entered an unreported Order on October 1, 2007 denying that petition.

STATEMENT OF CASE

Petitioners' brief in support of their petition alleges sweeping facts that are scandalous, irrelevant, and prohibited by Supreme Court Rule 24(6). Petitioners' facts are therefore not worthy of response, and are entirely disputed. The relevant facts are set forth in the decision of the Georgia Court of Appeals at *Nanan v. State Farm Fire and Casualty Co.*, 650 S.E.2d 283, 286 Ga. App. 539 (Ga. App. 2007).

ARGUMENT

"A petition for a writ of *certiorari* will be granted only for compelling reasons." SUP CT. R. 10. Further, writs of *certiorari* are rarely granted where "the asserted error consists of erroneous factual findings." *Id.* This Court defers substantially to lower courts in the resolution of disputed factual issues that turn on credibility determinations observed only by trial courts. *Berenyi v. District Director, Immigration & Naturalization Service*, 385 U.S. 630, 636, 87 S.Ct. 666 (1967) ("this court possesses no empirical expertise to set aside the careful and reasonable conclusions of lower courts on purely factual issues"); *see also General Talking Pictures Corp. v. Western Electric Co.*, 304 U.S. 175, 178, 58 S.Ct. 849 (1938) ("granting of the writ would not be warranted merely to review the evidence or inferences drawn from it").

Petitioners have articulated 12 questions presented that purport to implicate various constitutional violations. However, the crux of Petitioners' writ is that their case against State Farm should not have been dismissed because of their refusal to comply with the court's discovery orders. The trial court, having heard the arguments of the parties and observed firsthand Petitioners' history of noncompliance with court orders, was in the best position to determine the appropriate sanctions. This Court should clearly see through Petitioners' attempt for review of purely factual matters. The Georgia Court of Appeals' well-informed decision found the trial court's actions justified, and the Georgia Supreme

Court declined to revisit the issue. This Court should therefore not hesitate to deny Petitioners' petition for writ of *certiorari*.

CONCLUSION

The petition, which seeks review of purely factual matters, does not offer compelling reasons for this Court to grant Petitioners' writ of *certiorari,* and should be denied.

Respectfully submitted,

MARK T. DIETRICHS
Counsel of Record
WILLIAM W. DOWNS
SWIFT, CURRIE, MCGHEE & HIERS, LLP
1355 Peachtree Street,
Suite 300
Atlanta, GA 30309
(404) 888-6127